



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 20, 1995

Mr. Howard D. Bye
Matthews & Branscomb
One Alamo Center
106 S. St. Mary's Street
San Antonio, Texas 78205-3692

OR95-1522

Dear Mr. Bye:

You have asked whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 26689.

You represent the City Public Service Board of San Antonio ("CPS"), which operates the municipally-owned gas and electric utility system of San Antonio. CPS received a request from Household Driver's Report, Inc. ("HDR") for information about utility customers, including addresses, social security numbers and telephone numbers. You state that CPS is prohibited from disclosing the addresses, social security numbers, and telephone numbers of any utility customer who has requested confidentiality as provided under article 1446h, V.T.C.S.

Section 2 of article 1446h provides as follows:

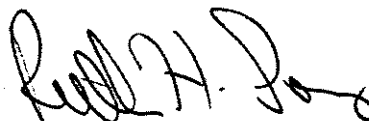
Except as provided by Section 5 of this Act, a government-operated utility may not disclose personal information in a customer's account records if the customer requests that the government owned utility keep the information confidential. The customer may request confidentiality by delivering to the government-operated utility an appropriately marked form provided under Section 4(3) of this Act or any other written request for confidentiality. The customer may rescind a request for confidentiality by providing the government-operated utility written permission to disclose personal information.

Section 1(2) of article 1446h defines "personal information" as an individual's address, telephone number, or social security number. This office determined in Open Records Decision No. 625 (1994) at 3-4 that the section 2 confidentiality provision of article 1446h is not applicable to utility customers who are "artificial entities" such as corporations. The section 2 confidentiality provision extends only to customers who are "natural persons" rather than business entities. Open Records Decision No. 625 (1994) at 3. Section 2 also is not applicable to individual customers who, at the time of the request for information, have not requested confidentiality. Open Records Decision No. 625 (1994) at 4-6 (The character of information as confidential or public is determined at the time the request is made). CPS must therefore release to HDR the requested information about its business customers and individual customers who had not requested confidentiality as of the time of the request.

The remaining question is whether CPS must disclose the requested information for individual customers who, at the time of the request, had asked that this information be kept confidential. *See Id.* at 4-6. As discussed in Open Records Decision No. 625 (1994) at 6-8, a government-operated utility is required to disclose personal information in its customer account records to the persons and entities listed in section 5 of article 1446h. Open Records Decision No. 625 (1994) at 6-8. Among the entities listed in section 5 are consumer reporting agencies. V.T.C.S., art. 1446h, § 5(3). If CPS has determined that HDR does not fall within one of the section 5 categories, then CPS may not disclose the names, addresses, and social security numbers of its individual customers who requested that this information be kept confidential.¹ Open Records Decision No. 625 (1994) at 8-10 (government-operated utility may seek proof that the requestor is a section 5 entity or business).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

¹We note that this office was provided no information concerning whether the requestor falls within section 5.

RHS/MAR/rho

Ref.: ID# 26689

cc: Ms. Sandra Lambert
Marketing Director
Household Driver's Report
17629 El Camino Real, Suite 420
Houston, Texas 770581`